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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-724

13 **HARRY WILLIAM PASTO**
14 **1144 Waluhiyi Tr.**
Macon, GA 31220

ACCUSATION

15 **Registered Nurse License No. 609466**

16 Respondent.

17
18 Louise R. Bailey, M.Ed., RN ("Complainant") alleges:

19 **PARTIES**

20 1. Complainant brings this Accusation solely in her official capacity as the Executive
21 Officer of the Board of Registered Nursing ("Board"), Department of Consumer Affairs.

22 2. On or about November 18, 2002, the Board issued Registered Nurse License Number
23 609466 to Harry William Pasto ("Respondent"). The license was in full force and effect at all
24 times relevant to the charges brought herein. The license expired on August 31, 2006, and has
25 not been renewed.

26 **JURISDICTION**

27 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that
28 the Board may discipline any licensee, including a licensee holding a temporary or an inactive

1 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing
2 Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
4 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
5 to render a decision imposing discipline on the license. Under Code section 2811(b), the Board
6 may renew an expired license at any time within eight years after the expiration.

7 STATUTORY PROVISIONS

8 5. Code section 2761 states, in pertinent part:

9 The board may take disciplinary action against a certified or licensed nurse or
10 deny an application for a certificate or license for the following:

11 (a) Unprofessional conduct...

12 (4) Denial of licensure, revocation, suspension, restriction, or any other
13 disciplinary action against a health care professional license or certificate by another
14 state or territory of the United States, by any other government agency, or by another
California health care professional licensing board. A certified copy of the decision
or judgment shall be conclusive evidence of that action.

15 (f) Conviction of a felony or of any offense substantially related to the
16 qualifications, functions, and duties of a registered nurse, in which event the record of
the conviction shall be conclusive evidence thereof.

17 6. Code section 2762 states, in pertinent part:

18 In addition to other acts constituting unprofessional conduct within the meaning
19 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person
licensed under this chapter to do the following:

20 (b) Use any controlled substance as defined in Division 10 (commencing with
21 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous
22 device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner
dangerous or injurious to himself or herself, any other person, or the public or to the
extent that such use impairs his or her ability to conduct with safety to the public the
practice authorized by his or her license.

23 (c) Be convicted of a criminal offense involving the prescription, consumption,
24 or self-administration of any of the substances described in subdivisions (a) and (b) of
25 this section, or the possession of, or falsification of a record pertaining to, the
substances described in subdivision (a) of this section, in which event the record of
the conviction is conclusive evidence thereof.

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1 Respondent used an alcoholic beverage to an extent or in a manner dangerous or injurious to
2 himself and the public when he operated a vehicle with a blood alcohol level of 0.08% or higher.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Conviction Involving the Consumption of Controlled Substances and Alcohol)**

5 11. Respondent is subject to discipline under Code section 2761(a); on the grounds
6 of unprofessional conduct as defined in Code section 2762(c), in that on or about
7 September 7, 2004, Respondent was convicted of a crime involving the consumption of alcohol,
8 as more particularly set forth above in paragraph 9.

9 **PRAYER**

10 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Board of Registered Nursing issue a decision:

- 12 1. Revoking or suspending Registered Nurse License Number 609466, issued to Harry
13 William Pasto;
14 2. Ordering Harry William Pasto to pay the Board of Registered Nursing the reasonable
15 costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,
16 3. Taking such other and further action as deemed necessary and proper.

17 DATED: MARCH 9, 2013

18 *for* LOUISE R. BAILEY, M.ED., RN
19 Executive Officer
20 Board of Registered Nursing
21 Department of Consumer Affairs
22 State of California
23 Complainant
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Exhibit A

In the Matter of Harry William Pasto
Order to Revoke Temporary License
North Carolina Board of Nursing

**BEFORE THE NORTH CAROLINA BOARD OF NURSING
OF THE STATE OF NORTH CAROLINA**

In the matter of)

**Harry William Pasto,
RN Endorsement Applicant**)

ORDER TO REVOKE TEMPORARY LICENSE

Pursuant to the authority vested article 9A, Chapter 90 of the General Statutes of North Carolina, and Article 3A of Chapter 150B-38 of the General Statutes of North Carolina, the North Carolina Board of Nursing (hereafter referred to as the Board) **Revokes** the RN Temporary License of Harry William Pasto for violation of the Nursing Practice Act.

1. Harry William Pasto is the holder of Registered Nurse Temporary License # 94614 which expires on August 24, 2011.
2. On February 24, 2011, Mr. Pasto was issued a temporary license to practice nursing in North Carolina. By accepting the temporary license, the licensee agreed to comply with all the laws, rules and regulations of practice promulgated by the Board.
3. On February 23, 2011, Mr. Pasto submitted to the Board an Application for Licensure by Nurse Licensed in Another State. On the application, there is a question that asks, "have you ever been convicted of a misdemeanor/felony (other than minor traffic violations) or do you have any charges pending whatsoever?" To this question, Mr. Pasto responded, "no."
4. Based on Mr. Pasto's response, he was issued a non-renewable temporary license to practice nursing in North Carolina valid from February 24, 2011 through August 24, 2011.
5. As part of the application process, licensees must submit to a Criminal Background Check (CBC). On March 23, 2011, the Board received the results of the criminal background check and noted Mr. Pasto has a pending felony charge from Bibb County in Macon, Georgia for Sexual Exploitation of Children showing an incident date of February 15, 2011. Additionally, the Board also received a report of a pending DWI in Clarksburg, West Virginia showing an arrest date of October 12, 2004, with no disposition date listed.
6. Had Mr. Pasto provided this information at the time of submission of his application, he would not have been eligible for issuance of a temporary license. Mr. Pasto knowingly and willfully falsified his application for endorsement by failing to disclose pending charges in Georgia and West Virginia.
7. Given the nature of the pending charges, the Board would be remiss in its' duties of assuring public protection if the Board did not conduct further due diligence related to the pending charges prior to issuing any license to practice nursing in North Carolina.
8. The information received shows the licensee has violated G.S. 90-171.37 (2) (4) (6) (7) and (8) and as further identified in Regulation 21 NCAC 36.0217 (c) (3) and (15).
9. Therefore, the Temporary License of Harry William Pasto is hereby **REVOKED**, and the licensee must immediately **CEASE AND DESIST** from the practice of nursing in North Carolina.

**BEFORE THE NORTH CAROLINA BOARD OF NURSING
OF THE STATE OF NORTH CAROLINA**

In the matter of)

Harry William Pasto,
RN Endorsement Applicant)

ORDER TO REVOKE TEMPORARY LICENSE

10. In accordance with Chapter 150B of the General Statutes, the licensee is entitled to a "Show Cause" Hearing before a majority of the members of the Board to determine why the Board should not take further action because of the licensee's failure to comply with the probationary conditions, including imposing further discipline.
11. The licensee is entitled to be represented by counsel and to present evidence and witnesses/testimony on the licensee's behalf.
12. Pursuant to North Carolina General Statute Section 150B-40(d), the licensee may not communicate, directly or indirectly, with any individual member of the Board about this matter. If the licensee or legal representative has questions, they should contact Donna H. Mooney, RN, MBA, Discipline Proceedings Manager.
13. If the licensee is disputing the fact that the violations as alleged did occur, the licensee must file a written objection with the Board within ten (10) working days of the date of the notice of violations to (licensee name). The notice must contain with specificity the violations being disputed.
14. When the licensee has properly filed notice of objections with the Board, then the licensee will be notified of the exact date and time for the "Show Cause" Hearing. The Hearing will be held at the next scheduled Board meeting for which appropriate notice can be provided, or scheduled by consent of the parties.
15. Failure to return the written objection within the designated time period will be construed to mean the licensee is not contesting the matter and all further proceedings to which the licensee is otherwise entitled by law are hereby waived. The license will then remain revoked until the licensee requests in writing the opportunity to appear before the Licensure Committee to petition for issuance of a license to practice in North Carolina.
16. This ORDER to REVOKE will be placed in the licensee's file and becomes a public record pursuant to the North Carolina Public Record Statute G.S. Chapter 132 and Board policy.
17. By not contesting the violations contained in this ORDER, the licensee is waiving the rights to a "Show Cause" Hearing, to challenge the validity of this ORDER and to any further proceedings to which the licensee may be entitled by law.
18. By contesting the violations contained in this ORDER, the licensee is requesting a "Show Cause" Hearing to be scheduled before a majority of the members of the Board or the Board's Hearing Committee.

The licensee understands that a written objection with the specific violations/charges being disputed must be received within 10 business days of the date of this notice.

The subject of the "Show Cause" Hearing shall be limited to the specific reasons for which the probationary license was suspended/revoked.

BEFORE THE NORTH CAROLINA BOARD OF NURSING
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In the matter of)

Harry William Pasto,
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ORDER TO REVOKE TEMPORARY LICENSE

When the licensee has properly filed notice of objection with the Board, then the Licensee will be provided a Hearing before the Board at the next scheduled Board meeting for which appropriate notice can be provided, or scheduled by consent of the parties.

19. In accordance with G.S. 90-171.27 (d) and Board policy derived therefrom, a fee may be assessed for disciplinary matters. A "Show Cause" Hearing is considered a discipline matter.

**FAILURE TO RETURN THE ATTACHED PAGE WITHIN 10 BUSINESS DAYS WILL
RESULT IN THE LICENSEE WAIVING ALL RIGHTS TO CHALLENGE THE VALIDITY
OF THIS ORDER OR TO ANY OTHER PROCEEDINGS TO WHICH THE LICENSEE
MAY OTHERWISE BE ENTITLED BY LAW.**

This the 29th day of March, 2011.

Julia L. George, RN, MSN, FRE
By

Julia L. George, RN, MSN, FRE
Executive Director
North Carolina Board of Nursing

Katy McQuillen, RN, MSN
Asst. Executive Director, Programs